

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

MATTHEW ESCALANTE
S.J.E, a minor & S.G.E, a minor
PLAINTIFFS

vs.

CHARLES DROEGE
in his official capacity of Chief Judge
of the Johnson County District Court
JANELLE ESCALANTE
Defendants

CIVIL ACTION NO.
2:23-CV02536

**EX PARTE EMERGENCY PETITION FOR APPLICATION
OF RULE 87 IN THE INTEREST OF MINORS & THE 10TH DISTRICT JUDICIARY**

FATHER, Pro Se Litigant, petitions to this Court under Emergency Circumstances that is pursuant Rule 87. Plaintiff request immediate review in the Interests of Johnson County KS minor children. The Judicial Conference of the United States may declare a Civil Rules Emergency may declare a Civil Rules emergency if it determines that extraordinary circumstances relating to public health or safety, or affecting physical or electronic access to a court, substantially impair the court's ability to perform its functions in compliance with these rules.

(a) Declaring an Emergency -The Plaintiff Father Matthew Escalante is declaring Emergency on the following factual grounds as true and ongoing, under the oath of this Federal Judiciary, action to Protect Minors is needed & will

(1) The Declaration Must: affect the Functions of Joco court as Defendant is Chief

(A) Designate the Court: 10th District Judiciary

(B) It's discretion of the High Court as to what emergency rules will or will not take effect.

(C) Risk of Irreparable Emotional and Psychological Harm to Minors is Present w/ Defendants Actions in JoCo as Chief Judge, Action is Needed to Stop Harm

**EMERGENCY EX PARTE ESCALANTE MINOR CHILDREN'S
PETITION FOR WRIT OF HABEAS CORPUS**

The PLAINTIFF FATHER MATTHEW ESCALANTE, respectfully represents to this Honorable Court, that the Defendant of this Federal Action DEFENDANT CHIEF CHARLES DROEGE, has unlawfully withheld as PRISONER, the JURISDICTION itself of the two minor children, who are listed originally in Document #1 of 2:23-CV025 Minor child, S.J.E, and minor child, S.G.E, are then being held by the Detaining Agency of the Johnson County Court 10th District Chief Judge Charles Droege, unlawfully depriving. Plaintiff father must be very direct right now, so forgive me please. Case Record 18CV03813 attached hereto as Exhibit A, shows the custody case of the two minor children. And a certified court transcript from that docket showing as 10-18-23 is attached hereto as Exhibit B. The combination of Exhibit A and Exhibit B, show that on October 18, 2023, once presiding Paul W. Burmaster failed the processes under KSA 23-3203. Exhibits show that Paul Burmaster did not serve per statute the Final Order/Judgement spoke of on Pages, 12, 13, and 14 of Exhibit B. And those pages also in AFFIRMATIVE also next to Exhibit C of FINAL ORDER/JUDGEMENT was NEVER LEGALLY SERVED as Kansas Statute under KSA 32-3203 then Links to Temporary Order Statutes, and that links to Final Order that we see in Exhibit , page 14. No Personal Service occurred, in affirmative. Every statute dealing custody modification involves proper Notice and Service. KSA 23-3219. KSA 38-2243, KSA 38-2244 (f) any parent not served pursuant to K.S.A. 38-2237, and amendments thereto, who has not consented to the informal supervision, Well Mr Escalante objected for almost 2 years had said no Consent, and gave his reasonings why of

alienation harm that was being caused.

But KSA 38-2244, is where parties are at. THERE WAS NO PERSONAL SERVICE OF THE FINAL ORDER/JUDGEMENT OF DOC 307 IN 18CV03813. THE PLAINTIFF MUST ESTABLISHING THAT OFF OF CASE RECORDS EXHIBIT A AND B in a federal docket. (that's important to say for another matter) But section (f) Lack of service on a parent shall not preclude an informal supervision under the provisions of this section. If an order of informal supervision is entered which effects change in custody, any parent not served pursuant to K.S.A. 38-2237, and amendments thereto, who has not consented to the informal supervision, may request reconsideration of the order of informal supervision. The court shall hear the request without unnecessary delay. If the informal supervision order effects a change in custody, efforts to accomplish service pursuant to K.S.A. 38-2237, and amendments thereto, shall continue.

Well Exhibit A and Exhibit B, show Paul Burmaster just 100% Gave Up efforts to Personally Serve

As KSA 38-2237 does not say Electronic Mail Service, it shows affirmative only Email transmission occurred by the Transcript statement Judge says he will send it later on page 13 and it arrives hours later docket noted. It had to be email. Effort to serve by Judge Not Possible. As of 10/19/23 ORDER IS VOID he never tried again to serve he failed the Plaintiffs baby girls. Furthermore Exhibit B, pg13 speaks of CUSTODIAN added to the Judgement of Livingston Counseling. On October 18, 2023 KSA 38-2255 Section 5) The court shall provide a copy of any orders entered within 10 days of entering the order to the custodian designated under this subsection.

It's affirmative by case records that the Court Paul Burmaster had until Oct 28th 2023 to Provide a copy of Doc 307(Order) to make 10 DAYS to Livingston Counseling LLC(Custodian) to adhere to a final order of custody modification. And he did not, even try. He failed our children miserably.

Exhibit C is attached hereto, and is David Livingston admissible email testimony from Livingston Counseling LLC, the Court Never notified Livingston LLC. That's so negligent, an indirect form of child abuse. And told Charles that Livingston actually LEFT doc 307 in 18CV03813, Magistrate Livingston disqualified themself months ago, and called the Court and told Droege to AMEND doc 307. So it's established that Custody Modification of Escalante was never even close to fulfilled by Kansas Statute requirements. And all the above facts lead to more Facts:

The Document 192 years ago FAILED. And Mother is then Unlawfully Detaining Custody. BUT ALSO IS DEFENDANT CHARLES DROEGE is the controller and holder of the Jurisdiction of two little girls who have gotten screwed, lack of all terms, out of their God Given and constitutional right to have a father that loves them. And I do love them, and they love their father and Washington vs Glucksberg.

Charles Droege by all facts present alongside a second look now at Exhibit A, Droege is denying docketing from parties, with statements on page 1 Exhibit A:

02/14/2024 <***** Bench Notes *****>

RESPONDENT'S "EX PARTE MOTION TO VACATE DOCUMENT 307" E-MAILED TO THE CLERK'S OFFICE FOR FILING ON FEBRUARY 14TH, 2024, IS DISALLOWED. NO FURTHER PLEADINGS MAY BE FILED, OR HEARING SCHEDULED IN THIS CASE, UNLESS AND UNTIL THE COURTS PREVIOUS RULING REGARDING CUSTODY AND PARENTING TIME ARE APPEALED, REVERSED, OR REMANDED BY THE KANSAS COURT OF APPEALS. NO PLEADINGS WILL BE ALLOWED TO BE FILED, OR HEARINGS SCHEDULED REGARDING RESPONDENT'S PARENTING TIME UNTIL RESPONDENT FOLLOWS THE COURT'S ORDER REQUIRING FAMILY COUNSELING AND REINTEGRATION WITH THE MINOR CHILDREN.

FOLLOWING ANY APPELLATE DECISION, IF A HEARING IS DEEMED APPROPRIATE, THE MATTER MAY BE HEARD BY AN ASSIGNED JUDGE BY THE CHIEF JUDGE TO CONDUCT THE HEARING

And Droege Knows the Final Order and Judgement, are Void. Mother and Defendant are Unlawfully both RESTRAINING THE RETURN of shared custody. CUSTODY is being held prisoner directly also by this Defendant Droege, Defendant is not allowing Notice of Appeals to docket in Johnson Co. at all so that parties/plaintiff can appeal 10/18/23 Judgement, but it is Void anyway.

He is then holding AS PRISONER, the jurisdiction rights and opportunity for 2 minors to have a more full and enjoyable life, he's harming, b/c right now, those girls are thinking their daddy left them and I'm in here. Tell the Magistrate, that Charles Droege and Paul Burmaster are conducting a course of conduct that Abuse of the Escalante minor children, S.J.E. and S.G.E and I'm way better father than to not come here respectful as I can and tell Magistrate Judge to favorably intervene into that Indirect Child Abuse of Const Amend 14.S1.5.8.1, Parent and Children and Due Process. If I need statutory base it. Defendant are intentionally harming S.J.E a minor child, and S.G.E, a minor children by intentions and deceptions to deprive their child right that is found in that constitution amendment. AND THAT NO WHERE IS IN CHARLES DROEGES OFFICIAL CAPACITY OR JOB DESCRIPTION TO DO

DEFENDANT IS AFFIRMATIVE ACTING AGAINST MY TWO LITTLE GIRLS BEST INTEREST AND HE 100% ACTION IN CLEAR ABSENCE OF ALL JURISDICTION IN THESE PLEASE STOP HIM MAGISTRATE, YOURE THE ONLY ONE WHO CAN. IF HE IS ABUSING MY LITTLE GIRLS THEN HE IS DOING IT TO OTHERS, IMPLIED THIS FEDERAL JUDICIARY MUST STOP THEM FROM ACTS THAT ARE ABUSING TO MINOR CHILDREN FROM THEIR OFFICIAL CAPACITIES.

<***** Bench Notes *****>

RESPONDENT'S MOTION FAXED TO THE CLERK ON DECEMBER 30, 2023, IS DISALLOWED FOR FILING BASED UPON THE PREVIOUS ORDERS ISSUED IN THIS CASE ON OCTOBER 18, 2023, - DOC (307) THOSE ORDERS REQUIRE THAT NO FURTHER PLEADINGS MAY BE FILED, OR HEARINGS SCHEDULED IN THIS CASE UNLESS AND UNTIL THE COURT'S PREVIOUS RULING REGARDING CUSTODY AND PARENTING TIME ARE APPEALED, REVERSED OR REMANDED BY THE KANSAS COURT OF APPEALS. NO PLEADINGS WILL BE ALLOWED, OR HEARINGS SCHEDULED REGARDING RESPONDENT'S PARENTING TIME UNTIL RESPONDENT FOLLOWS THE COURT'S ORDERS REQUIRING FAMILY COUNSELING AND REINTEGRATION WITH THE MINOR CHILDREN. FOLLOWING ANY APPELLATE DECISION, IF A HEARING IS DEEMED APPROPRIATE, THE MATTER WILL BE ASSIGNED TO AN OUT-OF-COUNTY JUDGE TO CONDUCT THE HEARING HERE IN THE 10TH JUDICIAL DISTRICT COURT

There is no Out of County Judge, I've tried to motion for him, and nope. Droege is acting is clear absence of all jurisdiction with all the above affirmatives. It is no where in a Chief Judge's job description to do what is seen in this Petition and it is acts of indirect child abuse of him tampering with custody and dockets. He's a chief judge. His job capacity is included in the last exhibit D, attached hereto, and none of the above several pages are what is in that job description. That is criteria also matched of Stump vs Sparkman 435 US 349. Droege is way outside of where he should be. CLEAR ABSENCE OF ALL

But there's More the federal judiciary needs to see:

JURISDICTION

The statutes above KSA 38-2244, KSA 38-2245, KSA 38-2255, KSA 60-1606

Its affirmative by case records that the Johnson county civil district court DID NOT follow the law, meaning these Johnson County 18CV03813, in dealing with this matter were not pursuant those statutes. And its affirmatve I can't get to court of Appeals by Droege's statements and he has blanketed the docket against Judicial Rules in Summary of Authorites of Kan Sup court or Lynn v. Anstaett, No. 108,568, 2013 WL 5422344, at *3 (Kan.

Ct. App. Sept. 27, 2013) (Lynn 3), citing Holt, 290 Kan. at 499-501.

Blankets prohibiting entries are not allowed and Droege is clearly abusing his discretion in exhibit A.

I have never once tried to take these Children and steal a parent from them. I believe in shared coparenting But Mother of the case, this Court must help Her. I am genuinely asking for Habeas summons Droege and Ms Escalante, is very appropriate venue upon the facts, and exhausted remedy's and these are minors there could be more Minors if chief judge is doing more of this, no disrespect intended.

The High Court may not have to Address the information on this page. But it is to be Known: The statutes above KSA 38-2244, KSA 38-2245, KSA 38-2255, KSA 60-1606 Our proceedings 18CV03813 were not pursuant, at all.

The Defendants of 2:23-CV02491 are 100% of Knowledge of all that is in this Petition. And they have deceived the Johnson County District Attorney's Office to bring a criminal Complaint Magistrate James, if there's no Final Order on 10/18/23, could a criminal charge ever result from an Infraction off an Order that VOIDED as such with way it WasNot Handled by Statute. It definitely can't be charged criminally off of, but there is now an ATTEMPT to.

The defendants were dismissed from 2:23-CV02491 and they went right back to behavior of illegality. Honorable Broomes dismissed them and the defendant show a fraud act in the county 24-DV00172.

Misrepresentation of a court order the Assistant District

10:09 #412 P.001/002 Attorney's Office, one week after Escalante v Escalante dismissal
24DV00172 DivM3 in 2024.

WARRANT

**IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS:
THE STATE OF KANSAS TO ANY LAW ENFORCEMENT OFFICER IN THE STATE OF
KANSAS:**

WHEREAS a written complaint or information and evidence under oath, has been filed with me, and it appears that there is probable cause to believe that did the following:

MATTHEW AARON ESCALANTE

COUNT I - That on or about the 7th day of December 2023, in the County of Johnson and State of Kansas, MATTHEW AARON ESCALANTE did then and there unlawfully, knowingly and intentionally violate a restraining order issued pursuant to K.S.A. 38-2243 K.S.A. 38-2244, K.S.A. 38-2255 or K.S.A.

60-1607, a class A person misdemeanor, which constitutes a domestic violence offense, in violation of K.S.A. 21-5924, K.S.A. 21-6602 and K.S.A. 22-4616 (violation of a protective order)

Clerk of the District Court, Johnson County Kansas

02/09/24 08:19am AM

CJ SHERIFF

509 14:54

Magistrate, Oath of this Court, a Defendant not Droege is misrepresenting the Court order in 24DV00172 the same week they were dismissed from this Court, How they can bring a charge onto me off an Order that voided big time in Oct 2023. This is not a PFS 22CV03391 violation here in 24DV00172, they're stating it is a violation of Civil Interlocutory Doc 307 with the kids. They know the Children's Order flawed. It has to be pursuant statute to even consider Charging a crime out of it, and droege blocked Notice of Appeals

But I am notifying this court, also under Oath that both dockets of two criminal cases in County, that other one is 23DV00908 and I did discover Assistant District Attorney Andrew Jennings misrepresenting Complaint doc #1 of 23-DV00908, that's two fraud charge they have not been able to prosecute me and brought by them someone has to stop them Magistrate please. I entered motions into the criminal case 23-DV00908 several weeks ago when I discovered how to show Assistant district attorney Jennings is Lying in that case entry. And days later Jennings brought Case 24-DV00172 Out of Nowhere. Thats Retaliation by the State, for me being Honest in these Courts about whats happening all the Against the Best interest of children. But this doesn't have to address but I will professionally. We're way better parents than this. Corrective Habeas will offer the Remedy needed for the Children. It's about them.

We're not gonna do that to these little girls anymore

they dont deserve it. I intend on dismissing these criminal cases but this High Court please don't deny the Plaintiff attempting to what all was done not in accordance with in the Joco court.

Please, I beg and pray for the children's best interest.



733 Hemlock St
Gardner KS 66030
Phone 913-286-2250
Fax no fax
email eskie678@aol.com

WHEREFORE, its a request to offer relief for minor(s) that the Court issue a Writ to commanding defendant(s) to produce those Beautiful children and Jurisdiction returned and on the date the Court chooses. Plaintiff wishes Court show mercy on Defendants but pls hold accountable, everybody makes mistakes big ones were made they must be fixed pls

CERTIFICATE OF SERVICE

I hereby certify that I feel had no choice and clearly children are being emotionally and mentally harmed by such actions in the dt. ct. by Defendant, as this venue only that remains, and this Petition was sent via CM/ECF and copy was sent to all parties in proceedings. Children must offered protection please.